

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
(EASTERN DIVISION)

_____	)	Case No. C2-03-264
AIRCRAFT TECHNICAL PUBLISHERS,	)	Case No. C2-04-1072
a California corporation,	)	
	)	Judge Gregory L. Frost
Plaintiff,	)	
	)	
v.	)	
	)	
TDATA, INC., an Ohio corporation,	)	
	)	
Defendant.	)	
_____	)	
CONSOLIDATED WITH	)	
_____	)	
TDATA, INC., an Ohio corporation,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
AIRCRAFT TECHNICAL PUBLISHERS,	)	
a California corporation,	)	
	)	
Defendant.	)	
_____	)	

**[PROPOSED] FINAL PRETRIAL ORDER**

This action came before the Court at a final pretrial conference held on May 22, 2008 at 12:00 p.m. pursuant to Rule 16 FRCP.

**I. APPEARANCE**

For Plaintiff: Jack Russo

For Defendant: Roy A. Hulme

Alan B. Parker

D. Wesley Newhouse


**II. NATURE OF ACTION AND JURISDICTION:**

A. This is an action for patent infringement, trademark infringement and unfair competition (Lanham Act). The patent infringement aspect of this case has been stayed pending re-examination of the patents-in-suit by the United States Patent and Trademark Office. The Court has already ruled that under the Lanham Act Tdata, Inc. ("Tdata" or "Defendant" herein) is liable for trademark infringement and unfair competition, such that trial in this action is as to damages only.

B. The jurisdiction of the Court is invoked under 28 U.S.C Sections 1331 and 1338, and Title 15, United States Code, Section 1121.

C. The jurisdiction of the Court is not disputed.

**III. TRIAL INFORMATION:**

A. The estimated length of trial is <sup>LIGHT (2) to TEN (10)</sup> ~~two (2) to three (3)~~ days. 

B. A jury trial has been set for July 7, 2008, 9:00 a.m., pursuant to the General Order on trial assignment.

**IV. AGREED STATEMENTS AND LISTS:**

A. General Nature of the Claims of the Parties;

1. Plaintiff claims:

a. Compensatory damages as follows:

(i) If damages are measured by Tdata's gains, compensatory damages are in a range (as affected by the non-infringing growth rate

that is applied) of no less than \$4,958,073 to \$7,263,840, including pre-judgment interest;

(ii) If damages are measured by a reasonable royalty approach, then damages are in a range (affected by the royalty rate that is applied) of no less than \$3,902,671 to \$8,310,291, including pre-judgment interest;

(iii) If damages are measured by ATP's lost profits, then damages are in a range (as affected by the non-infringing growth rate that is applied) of no less than \$6,155,817 to \$10,001,745.

b. Treble damages, based upon Tdata's willful infringement in an amount needed to deter Tdata from such conduct in the future;

c. Attorneys' fees incurred in connection with its trademark infringement and unfair competition claims.

2. Defendant claims:

a. ATP cannot prove that any sales were lost to Tdata due to the trademark misuse. If – despite that failure of proof – damages are to be awarded, the damages appropriate under the Lanham Act would total less than ~~\$79,000.00.~~ *\$150,000.*

b. Treble damages are not appropriate in connection with the trademark infringement and unfair competition claims.

c. Attorney fees are not appropriate in connection with the trademark infringement and unfair competition claims.

d. Royalty rates – while a necessary consideration to determining patent damages – are not a necessary or reasonable consideration in connection with the trademark infringement and unfair competition claims.

B. Uncontroverted Facts;

The following facts are established by admissions in the pleadings or discovery or by stipulation of counsel:

1. It has been previously established that Tdata infringed one or more of ATP's registered trademarks and unfairly competed with ATP in connection with the use of one or more ATP registered trademarks by using the same as "metatags" in the code for one or more Tdata websites.

2. ATP is a California corporation with its principal offices in Brisbane, California. ATP is in the business of developing, marketing, and selling solutions to the numerous research and regulatory challenges faced by aircraft maintenance professionals. Specifically, ATP compiles technical information from a widely dispersed set of sources, summarizes and indexes this information, and then distributes it in processed form to subscribers.

3. Tdata is an Ohio corporation with principal offices in Powell, Ohio. Tdata is in the business of aggregating and organizing complex technical information related to aircraft maintenance and repair, and disseminating this information to subscribers through a software interface.

4. ATP holds current United States trademark registrations in three marks: (i) U.S. Registration No. 1,617,116 (for the text mark "ATP®") issued to ATP on October 9, 1990, (ii) U.S. Registration No. 1,855,117 (for the text mark "ATP Navigator®") issued to ATP on September 20, 1994, and U.S. Registration No. 2,298,462 (for the text mark

“ATP Maintenance Director®”) issued to ATP on December 7, 1999 (hereinafter the “ATP Trademarks”).

C. Issues of Fact and Law;

1. Contested Issues of Fact: The contested issues of fact remaining for decision are:

a. the amount of damages caused by Tdata’s willful trademark infringement and unfair competition.

b. the amount of improper gains, if any, made by Tdata in connection with its willful trademark infringement and unfair competition, and the proper rate of non-infringing growth to be applied for Tdata’s products.

c. the amount of lost profits, if any, ATP suffered due to Tdata’s willful trademark infringement and unfair competition, and the proper rate of non-infringing growth to be applied for Tdata’s products.

d. the amount of damages, if any, ATP suffered if damages are measured by a reasonable royalty approach, and the proper royalty rate to be applied.

e. the degree to which the proper measure of damages should be affected by any of the following disputed facts:

(i) ATP and Tdata are direct competitors.

(ii) Tdata used one or more of the ATP trademarks as a metatag during the period of at least December, 1997 through June of 2004.

(iii) On or about April 14, 1994, ATP brought suit against Tdata and its President, James Thomas, in the Northern District of California for

copyright infringement, false advertising, unfair competition, and civil conspiracy. Case No. C94-1253 SBA.

(iv) On or about May 20, 1994, pursuant to the parties request and stipulation, and in order to settle the matter, the Northern District of California entered a Stipulated Permanent Injunction against Tdata for copyright infringement.

(v) The permanent injunction entered by the Northern District of California continues to be in effect and to bind Tdata.

2. Contested Issues of Law: The contested issues of law in addition to those implicit in the foregoing issues of fact are:

- a. Whether ATP is entitled to damages.
- b. Whether ATP is entitled to treble damages.
- c. Whether ATP is entitled to its attorneys' fees.
- d. Whether the Court has already ruled that Tdata's trademark infringement and unfair competition was willful.

D. Witnesses;

1. In the absence of reasonable notice to opposing counsel to the contrary, ATP will call, or will have available at the trial:

- a. Marc Vianello
- b. Caroline Daniels
- c. Michael Sandifer
- d. James Thomas
- e. Andrew Thomas

f. ATP reserves the right to call any witness listed or called by Tdata.

g. ATP reserves the right to call any witness necessary to establish an evidentiary foundation.

2. In the absence of reasonable notice to opposing counsel to the contrary, Defendant will call, or will have available at the trial:

a. James Thomas

b. Andrew Thomas

c. David Toomey

d. Laura Thieme

e. Albert A. Vondra

f. Jodi Thomas

g. Donna Bricker

h. Jackie Call

i. Tdata reserves the right to call any witness listed or called by ATP.

j. Tdata reserves the right to call any witness necessary to establish an evidentiary foundation.

3. In the event other witnesses are to be called at the trial, a statement of their names and addresses and the general subject matter of their testimony will be served upon opposing counsel and filed with the Court at least five (5) days prior to trial.

4. There is reserved to each of the parties the right to call such rebuttal witnesses as may be necessary, without prior notice thereof to the other party.

Expert Witnesses:

Parties are limited to the number of expert witnesses whose names have been disclosed to the other side, subject to any motions challenging such persons before trial:

ATP: Marc Vianello

Tdata: Albert Vondra

Laura Thieme (contested, subject to motion in limine by ATP)

For expediency at trial, counsel will prepare a resume of each expert's qualifications in accordance with Appendix A herein.

F. Exhibits:

Needless Court time is taken up in the marking of exhibits during trial. Accordingly, the exhibit list should be prepared prior to the trial and set forth in the pretrial order. Exhibit markers should be attached to all exhibits at the time they are shown to opposing counsel during preparation of the pretrial order. A supply of exhibit stickers may be obtained from the Courtroom Deputy Clerk. They should be attached to the upper right-hand corner whenever possible.

Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the pre-trial order, with the exception of exhibits to be used solely for the purpose of impeachment.

ATP shall mark its exhibits as P-1 *etc.* Tdata shall mark its exhibits as D-~~1~~<sup>1</sup>, *etc.*

G. Depositions:

A handwritten signature in black ink, appearing to be 'JY', is located to the right of the text in block G.



At the present time, Plaintiff reserves the right to offer the testimony of any or all of the following witnesses by deposition:

James Thomas: Aug. 23, 2005	pp. 6, 21-26, 32-33, 39, 41-49, 65-69 75-76, 101-102, 111-112, 116, 142-143, 169-171, 178, 192, 203-04, 278, 282-284, 295-296, 324, 339, 345-346, 367, 376
Nov. 4, 2005	pp. 60-61, 73 and 92-93
Andrew Thomas: Aug. 25, 2005	pp. 12-13, 72-105, 131-132, 140, 144-172, 190-191, 207-208, 214-216, 218-220
Nov. 4, 2005	pp. 9-13 and 33
David Myers: Nov. 3, 2005	pp. 58-59
Jeffrey Bellar: Nov. 1, 2005	pp. 7, 45-46
Terry VanDorn: Nov. 1, 2005	pp. 21-22
Paul Tursic: Nov. 3, 2005	pp. 25-26, 33-39 and 72-74
David Toomey: Nov. 2, 2005	pp. 8-10, 18-30, 59-61, 76 and 81-82
Robert Maroldy: Nov. 2, 2005	pp. 11, 34, 38-39 and 44
Donna Bricker: Nov. 2, 2005	pp. 30-33, 44-45, 75-85 and 99-104
Tdata, thorough its Rule 30(b)(6) witness, James Thomas:	
Aug. 25, 2005	pp. 12-14, 24-25, 27-29, 57-59, 69-71, 108-111, 135-141, 147-157, 165-167, 170-177 and 179-193

At the present time, Tdata objects to ATP's use of deposition testimony of Tdata witnesses unless the appropriate evidentiary foundation for such use is established at the time of trial. Tdata reserves the right to offer the deposition testimony of any ATP employee at trial, subject to compliance with the necessary evidentiary foundation. ATP objects to this unparticularized recitation of deposition testimony by Tdata and requests that the Court bar any deposition testimony by Tdata except for impeachment purposes only.

H. Discovery:

Discovery shall have been completed as of the Final Pre-Trial Conference on May 22, 2008.

V. **MODIFICATION**

This final pretrial order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel or on motion of the Court.


VI. **JURY INSTRUCTIONS**

The parties shall confer in advance of the final pretrial conference and agree upon proposed jury instructions which shall be delivered to the Court seven (7) days before the trial date. If the parties are unable to agree on how the jury should be instructed as to any issue, they shall each submit their proposed instructions on any such issue(s). There is reserved to counsel the right to submit supplemental requests for instructions during the trial or at the conclusion of evidence on matters that cannot be reasonably anticipated. All proposed jury instructions shall be submitted in hard copy

and on a 3.5" diskette or in a format compatible with WordPerfect for Windows version 6.1 or later.

VII. **SETTLEMENT EFFORTS**

The parties have made a good faith effort to negotiate a settlement, but to no avail.

  
\_\_\_\_\_  
GREGORY L. FROST  
United States District Judge

**APPENDIX A**

**Qualifications of Expert Witness Marc Vianello**

The following is intended to qualify your witness as an expert. It will be read to the jury in the form given. The Court will reserve the right to remove extraneous or repetitious material.

Name: Marc Vianello, CPA/ABV

Address: (o) 6299 Nall Avenue, Suite 210, Mission, Kansas 66202  
(h) 5209 W. 83<sup>rd</sup> Terrace, Prairie Village, Kansas 66207

Present Title: Managing Member of Vianello Forensic Consulting, LLC  
Publisher of The Judicial View, LLC ([www.judicialview.com](http://www.judicialview.com))

Education and Degrees: Bachelor of Science in Business Administration, Cum Laude University of Missouri – Columbia (1975)

Teaching Experience:

- Federal Deposit Insurance Corporation (FDIC) – Seminar conducted for the FDIC's field auditors regarding fraud and misrepresentations by bank borrowers.
- Financial Consulting Group – Seminar on discounts for lack of marketability in business valuations. Seminar on business valuation adjustments for current market conditions.

Professional Experience:

Mr. Vianello has 33 years of diversified experience as a CPA. He is licensed in the states of Kansas, Missouri, Nebraska, Iowa, North Carolina, and Florida, and in the District of Columbia. He has been recognized as an expert in accounting, finance, forensics, business valuation, and bankruptcy matters in many Federal and state

jurisdictions. Mr. Vianello was appointed by the Circuit Court of Jackson County, Missouri, to perform an investigative audit of an insurance receivership that resulted in the removal of the receiver. Mr. Vianello has been appointed by the District Court of Johnson County, Kansas, to prepare business valuations. Mr. Vianello has been employed by the following CPA firms –

- Arthur Andersen & Co., 1975-1980. Mr. Vianello provided audit, tax, and rate-consulting services as a CPA primarily to regulated public utilities industries.
- Grant Thornton, 1990-1993. Mr. Vianello provided bankruptcy, litigation, and valuation consulting services as a CPA to a broad cross section of industries. While a Grant Thornton, Mr. Vianello was a financial advisor to the Resolution Trust Company, which was the government entity dealing with the savings and loan industry crisis in the early 1990s.
- Baird, Kurtz & Dobson (now BKD), 1994-1997. Mr. Vianello provided bankruptcy, litigation, and valuation consulting services as a CPA to a broad cross section of industries.
- Vianello & Leonard, LLC, 1997-2007. Mr. Vianello provided bankruptcy, litigation, and valuation consulting services as a CPA to a broad cross section of industries.
- Vianello Forensic Consulting, LLC, 2007-present. Mr. Vianello continues to provide bankruptcy, litigation, and valuation consulting services as a CPA to a broad cross section of industries.

#### Entrepreneurial Experience:

- REMCO Securities Company, Inc. (president), 1982-1986, and REMCO Energy Corporation (vice president and Chief Financial Officer), 1982-present. REMCO Securities Company was a securities brokerage firm operating nationally from several locations. REMCO Securities was licensed by the NASD. Mr. Vianello was the licensed principal responsible for all brokerage activities. REMCO Energy Corporation is a licensed oil and gas exploration and production company that has explored for and produced

substantial quantities of oil from wells primarily located in Kansas and California. Mr. Vianello is now the sole owner and president of REMCO Energy Corporation.

- *The Kansas City Health Care Times, Inc.*, 1991-1993. Mr. Vianello was the founder and president of this weekly publication for the Kansas City regional health care industry.
- Pellestrina Farms, LLC and Pellestrina Dairy, LLC, 2001 to present. Mr. Vianello is the owner of this working farm that grows crops and maintains a dairy herd of about 100 milk cows.
- *The Judicial View, LLC*, 2007-present. Mr. Vianello is the founder, owner, and publisher of this online journal read by over 100,000 attorneys internationally. Its web address is [www.judicialview.com](http://www.judicialview.com).
- Mr. Vianello also has extensive real estate experience as an owner and developer.

#### Associations and Societies:

- American Institute of Certified Public Accountants
- Missouri Society of Certified Public Accountants
- Kansas Society of Certified Public Accountants
- Former panelist of the American Arbitration Association

#### Publications:

Mr. Vianello is the author of an article entitled "New Insight into Calculating Discounts for Lack of Marketability", which has been published in several professional journals.

## APPENDIX A

### Qualifications of Expert Witness Albert Vondra

The following is intended to qualify your witness as an expert. It will be read to the jury in the form given. The Court will reserve the right to remove extraneous or repetitious material.

Name: Al Vondra

Address: 200 Public Square, 18<sup>th</sup> Floor, Cleveland, Ohio 44114-2301

Present Title: Partner in Charge of Advisory Services at PricewaterhouseCoopers, LLP

Duties: Mr. Vondra has over 26 years with PricewaterhouseCoopers in public accounting including international experience. He currently leads the Advisory Practice in the Cleveland office.

Mr. Vondra has served as an advisor or an independent expert witness in over 250 business disputes and testified in over 50 proceedings. He authored the Price Waterhouse national guidelines and firm policies on conducting arbitrations involving complex accounting and business valuation matters in merger and acquisition disputes.

He has a broad business background in directing corporate investigations, audit/review engagements, damage analyses, internal control reviews, construction audits, business turnaround projects, quality assurance reviews of internal audit departments, acquisition and merger reviews, business valuations and dispute analysis projects. He has extensive business advisory experience on financial, accounting and disclosure matters.

Mr. Vondra also provides all audit, tax and business advisory services for public, private, and not-for-profit companies in a variety of industries including automotive, public utilities and construction, high technology, financial institutions, manufacturing, law firm services, health care and real estate.

Education and Degrees: Al Vondra received his Juris Doctorate from Cleveland Marshall College of Law and his Bachelor of Business Administration from Cleveland State University. In addition, he is a Certified Public Accountant (CPA),

in the State of Ohio and a Certified Fraud Examiner (CFE).

**Job Experience:** Mr. Vondra has worked at PricewaterhouseCoopers LLP, for the past 26 years. He is currently a partner of the Dispute Analysis & Investigative Services Section. He began his career at PwC in 1979 and has worked in various groups and offices such as: The Audit and Business Services Group in Cleveland, Cincinnati and Dayton and the National Office Accounting Services in New York in 1990. Mr. Vondra completed an international assignment in Athens, Greece between 1984 and 1986. Prior to joining PwC, he worked at Republic Steel Corporation from 1977 to 1978.

**Associations and Societies:** American Institute of Certified Public Accountants  
Ohio Society of Certified Public Accountants  
Panel of Arbitrators, American Arbitration Association (1991-1995)  
Institute of Management Accountants  
Cleveland and Cuyahoga Bar Associations  
American and Federal Bar Associations  
Editorial Advisory Board, The Ohio CPA Journal (1986-2002)  
Professional Ethics Committee, Dayton Bar Assn. (1992-1993)

**Publications:** As an author of articles on accounting and auditing in dispute analysis, Al Vondra has been published in business and professional journals such as The Harvard Business Review, Global Finance 2000, The Handbook of Strategy and Organization, Journal of Accountancy, Financial Executive, Ohio CPA Journal, New York CPA Journal, and Corporate Legal Times. Mr. Vondra's publications include: *"Intellectual Property, The Unrecorded Asset"*; *"Adding it Up: The Use of Financial Experts in Litigation"*; *"Alternative Dispute Resolution: Why It Doesn't Work and Why It Does"*.

**Honors:** Duke University, Recipient of Newton D. Becker, Academic Scholarship for Accounting Excellence  
University of Virginia, Darden Executive Program  
Fuqua Executive Program

**Other Pertinent Information:** Mr. Al Vondra has analyzed alleged financial damages and served as an expert witness in over 34 intellectual property cases. He has served as an advisor or independent expert witness in over 250 business



disputes involving money damages. He has worked with all major lawfirms in Ohio and numerous firms throughout the United States on matters involving complex financial and economic damages.

## **APPENDIX A**

### **Qualifications of Expert Witness Laura Thieme**

The following is intended to qualify your witness as an expert. It will be read to the jury in the form given. The Court will reserve the right to remove extraneous or repetitious material.

Name: Laura Thieme

Address: 500 W. Wilson Bridge, Suite 314, Worthington, Ohio 43085

Present Title: President, Bizresearch

Duties: As President and Founder of Bizresearch, Ms. Thieme oversees a company that provides full-service search engine marketing services including website traffic analysis for retailers, law firms and Fortune 500 companies throughout the United States, the United Kingdom and Canada.

Bizresearch specializes in providing its clients with the ability to track all incoming traffic and resulting sales utilizing the industry's leading analytical tools to determine if the cost of web-based advertising is appropriate for the client's industry, customers and market.

Education and Degrees: Ms. Thieme holds a Bachelor of Arts degree from The Ohio State University, which was awarded in 1993.

Teaching Experience: Ms. Thieme teaches principles of electronic marketing at the Ohio State University's Fisher College of Business.

She has developed on-line courses for the Search Engine Marketing Professional Organization.

She has presented at a number of professional Search Engine Strategies (SES) Conferences in the United States, Canada and Europe on topics including, "Measuring Success," "Marketing Database-Driven Websites," "Shopping Search Engines," and "Tracking Returns on Investment on Page Search."

She has, also, taught professional sessions on Search Engine Marketing for the Digital Marketing Associates (DMA.net).

Job Experience: For over the past 10 years, Ms. Thieme has been President of Bizresearch which she founded in 1997. Previously she was

employed with American Electric Power, and with the US Agency for International Development (USAID)/Deloitte & Touche, a project on Ukraine investment policy.

Publications:

Ms. Thieme's publications include "*Managing Search Marketing Campaigns*," "*Optimizing Keywords for Search Engines*," and "*Tracking and Measuring Search Engine Marketing Success*."

**APPENDIX B**

**Joint Exhibits of Plaintiff and Defendant**

<b>Designation</b>	<b>Description</b>	<b>AD</b>	<b>ID</b>	<b>PROF</b>

**APPENDIX C**  
**Exhibits of ATP**

<b>Designation</b>	<b>Description</b>	<b>AD</b>	<b>ID</b>	<b>PROF</b>
1	Court's Order granting summary judgment to ATP for willful trademark infringement and unfair competition and denying Tdata's motion re same (Docket No. 191)			
2	Certified copy of United States trademark registration for the "ATP" mark			
3	Final Expert Report of Marc Vianello			
4	Tdata's Answers to ATP's Second Set of Interrogatories			
5	Tdata's Responses to ATP's Third Set of Interrogatories			
6	Tdata's Supplemental Responses to ATP's First Set of Requests for Admission			
7	Tdata's Supplemental Responses to ATP's Second Set of Discovery			
8	Court's Order Striking Thieme Declaration (Docket No. 188)			
9	Responses by Tdata to ATP's Third Set of Requests for Admission			
10	Answers by Tdata to ATP's Fifth Set of Interrogatories			
11	Deposition Transcript of James Thomas w Marc Vianello notes			
12	Deposition Transcript of Andrew Thomas w Marc Vianello notes			
13	Deposition Transcript of Tdata Rule 30(b)(6) witness w Marc Vianello notes			
14	Exhs. 12-15 to Tdata Rule 30(b)(6) witness			
15	ATP licensing agreement w International Civil Aviation Organization			
16	ATP Microfiche Agreement with Gulfstream Aerospace Corp.			
17	ATP CD-ROM Product and Production License Agreement with Textron Lycoming, w cover letter			
18	ATP Licensing Agreement w Sabreliner Corp., w cover letter			

19	ATP Publishing Agreement w Canada			
20	ATP Licensing Agreement w Raytheon Aircraft Co.			
21	ATP Publishing and Distribution Agreement w Hiller Aircraft Corp.			
22	ATP Licensing Agreement w Learjet Inc.			
23	ATP Licensing Agreement w Mitsubishi Heavy Industries America, Inc.			
24	ATP Licensing Agreement w Rockwell International, w cover letter			
25	ATP Licensing Agreement w Turbomecca Engine Corp.			
26	ATP License Agreement w Bell Helicopter Textron, Inc.			
27	ATP Balance Sheets and Statements of Operation 1996-2007			
28	Yahoo! Industry Search Screen Shots			
29	U.S. Census Bureau NAICS Definition			
30	Memorandum re Pre-Judgment Interest			
31	Database of ATP Trade Shows Attended			
32	ATP Competitive Analyses			
33	ATP 1997-2004 Gross Margins			
34	Misc. email between Marc Vianello and ATP counsel			
35	Ohio Temporary Practice Statute for Accountants			
36	Copies of ATP Trademark/Service Mark Registrations			
37	Marc Vianello Work Product			
38	Misc. ATP Advertisements Regarding ATP Navigator Product			
39	FAA Website Screen Shots			
40	Misc. Tdata IApproach Advertisements			
41	Misc. Tdata MTrax Advertisements			
42	Misc. Summit Aviation Advertisements			
43	Misc. Aviation Computer Media, Inc. Advertisements			
44	Misc. Avantext, Inc. Advertisements			
45	Misc. AV-Data Advertisements			
46	Misc. Tdata IApproach Advertisements			
47	Tdata Product Order Form			
48	Tdata "About IApproach" Screen Shots			
49	Tdata IApproach Regulatory CD-ROM Order Form			

50	Tdata Order Form			
51	Tdata "About IApproach" Screen Shots			
52	Tdata IApproach Regulatory CD-ROM Screen Shots			
53	Tdata IApproach Regulatory CD-Rom Screen Shots			
54	Tdata IApproach Regulatory CD-Rom Screen Shots			
55	Tdata IApproach Regulatory CD-Rom Screen Shots			
56	Tdata IApproach Regulatory CD-Rom Screen Shots			
57	Tdata IApproach Regulatory CD-Rom Screen Shots			
58	Tdata IApproach Regulatory CD-Rom Screen Shots			
59	C.A.L.M. Systems, Inc. Screen Shots			
60	Aeroflight Tech Data CD-Rom Product Information			
61	Summit Aviation Order Form			
62	Summit Aviation Order Form			
63	Summit Aviation Order Form			
64	Summit Aviation Order Form			
65	Summit Aviation Order Form			
66	Summit Aviation Order Form			
67	Summit Aviation Order Form			
68	Summit Aviation Order Form			
69	Summit Aviation Order Form			
70	Summit Aviation Order Form			
71	Summit Aviation Order Form			
72	Summit CD-Rom Order Form			
73	Summit Aviation Secure Online Order Form			
74	Summit Aviation Computerized Aviation Reference Library Order Form			
75	Aviation Computer Media, Inc. Demo Advertisement			
76	Aviation Computer Media, Inc. FAA Regulatory Maintenance Library Advertisement			
77	Aviation Computer Media, Inc. Product Advertisement			
78	Aviation Computer Media, Inc. Product Advertisement			
79	Aviation Computer Media, Inc. Product			

	Advertisement			
80	Aviation Computer Media, Inc. Product Advertisement			
81	Aviation Computer Media, Inc. Product Advertisement			
82	Aviation Computer Media, Inc. Product Advertisement			
83	Aviation Computer Media, Inc. Product Advertisement			
84	Avantext Airworthiness Directive CD Advertisement			
85	Avantext Product Order Form			
86	Avantext Product Order Form			
87	Avantext Product Order Form			
88	Avantext Airworthiness Directive CD Library Screen Shots			
89	Avantext AD Deluxe Promotion Advertisement			
90	Avantext Shopping Cart Order Form			
91	Avantext Airworthiness Directives Basic Library Screen Shots			
92	Avantext Airworthiness Directives Basic Library Screen Shots			
93	Tdata's Responses to ATP's First Set of Interrogatories			
94	Declaration of Ansel Halliburton in Support of Plaintiff ATP's Motion for Summary Adjudication Re Liability on Trademark Infringement Claim			
95	Legal Memoranda re Trademark Infringement and Pre-Judgment Interest			
96	Tdata Transaction Detail by Account			
97	Spreadsheet of Tdata 1995-2006 Sales Impact BLR Data			
98	Spreadsheet of Tdata 1999-2005 Access Sales Combined Data			
99	Domain Name Whois Record re ATP			
100	NAICS Association Industry Definitions			
101	Memorandum re Price Elasticity of Demand by Paul Koch			
102	ATP Memorandum re E-commerce in General Aviation Industry			
103	Ohio Corporation Franchise Tax Memorandum			
104	Responses by Tdata to ATP's Fifth Set			



	of Requests for Production of Documents			
105	Tdata "TAP" Database			
106	Tdata 2000 Advertisements			
107	Tdata 2001 Advertisements			
108	Tdata 2002 Advertisements			
109	Tdata 2003 Advertisements			
110	Tdata 2004 Advertisements			
111	Tdata Identity Guide			
112	Tdata Marketing Proposals			
113	ATP U.S. Regulatory CD and Fiche Sales 1998-2004			
114	ATP U.S. Regulatory Sales by Item 1998-2004			
115	ATP Subscriptions—U.S. Regulatory Library 1998-2004			
116	ATP General Ledger 2000-2005			
117	ATP Gross Margin 1997-2005			
118	ATP Excerpt from General Ledger by Transaction 1998-2005			
119	ATP Customers with Regulatory and Maintenance Libraries 1997-2005			
120	ATP Subscription History 1997-2005			
121	ATP Customers with Multiple Libraries 1997-1998			
122	ATP Customers with Multiple Libraries 1999-2005			
123	ATP Cost of Sales by Media 1997-2005			
124	ATP Cancelled/Non-Renewed Subscriptions 1999-2005			
125	ATP Excerpt of Subscription History w Names 1997			
126	ATP Excerpt of Retention in Years From SQLTIME			
127	ATP Excerpt of Retention in Years GTS			
128	Misc. Competitive Information w cover letter and email			
129	ATP's Answer and Counterclaim			
130	Tdata's "Answer" to Counterclaim			
131	Tdata First Amended Complaint for Declaratory Judgment, Injunctive Relief and Damages			
132	ATP's First Amended Complaint Against Tdata in the Consolidated Actions			

133	Tdata's Answer to ATP's First Amended Complaint			
134	ATP's Reply to Counterclaims			
135	ATP's First Amended Reply to Tdata's Counterclaims			
136	Misc. Tdata Advertisements and Direct Mailings			
137	Misc. Records of Tdata Tradeshow Attendance			
138	Tdata Profit and Loss Statements 1997-2004			
139	Tdata Balance Sheets 1997-2004			
140	Tdata Tax Returns 1997-2004			
141	ATP Total Sales Summary by Product Family 2004-2007			
142	Tdata Excerpts of Profit and Loss and Balance Sheets			
143	Tdata Excerpts of Profit and Loss and Balance Sheets			
144	Tdata Income Statements 1995-2005			
145	Misc. Tdata Marketing and Advertising Documents and Related Invoices, etc.			
146	Stipulated Permanent Injunction in ATP v. Tdata, Case No. C-94 1253 SBA, Northern District of California			
147	Marc Vianello Surrebuttal Report			
148	Marc Vianello Amended Expert Report			
149	Tdata Sales Database			
150	Tdata Access Database			
151	Tdata Order Backup			
152	Tdata Order Database			
153	ATP Statements of Income, Operation			
154	ATP Gross Margin Database			
155	ATP Balance Sheets			
156	ATP Sales Impact Database			
157	ATP License Agreements			
158	ATP 2006-2007 Financial Data			
159	ATP Sales by Product Family			

**Appendix D**  
**(Exhibits of Tdata)**

Designation	Description	AD	ID	PROF
A	ATP Maintenance Product Competition			
B	Email re: market conditions			
C	Email re: "Welcome Home" promotion			
D	Email re: "Welcome Home" promotion Final Report			
E	Regulatory Comparison			
F	Value Scoring			
G	1999 Communication Plan			
H	ATP Market Analysis			
I	Subscriber Upgrade offer			
J	Subscriber Upgrade offer – internal document			
K	Product Plan – Regulatory CD-ROM Products			
L	Product Plan – IA Professional Library on CD-ROM			
M	Int'l Civil Aviation Org. + JARs Bundled with U.S. Aviation Reg. Libraries (Competitive Analysis)			
N	ATP @irRepair Line (Competitive Annalysis)			
O	Software Competitive Overview			
P	Aviation Maintenance Software Providers			
Q	Market Regulatory Competitors			
R	Jim Thomas / Tdata Profile			
S	Competitive Review Notes – Tdata, IApproach			
T	Tdata Mtrax Overview			
U	Competitor Product Comparisons			
V	A Comparative Usability Study of ATP Navigator			
W	New Sales Analysis			
X	Closed customer accounts			
Y	Competitive Analysis – HIS, Avantext, Tdata			
Z	Competitor Product Comparisons			
AA	Product Plan – IA Professional Library on CD-ROM			
BB	ATP Regulatory CD Product Analysis			
CC	Tdata Competitive Document			
DD	Regulatory Comparison			
EE	FFO Value Scoring			
FF	Regulatory Value Proposition			
GG	Survey Brief			
HH	Customer comments re: non-renewals			
II	Subscription Termination by Cancellation Period			
JJ	Renewal Cancellation Trend Reason Codes			
KK	ATP's Objections and Supplemental Responses to Tdata's 2 <sup>nd</sup> Interrogs – provided 4/8/05			
LL	1999 Communications Plan			
MM	FAA Civil Aviation Regs & Civil Aeronautics Manuals			
NN	Regulatory Value Matrix			
OO	Tdata product pricing			
PP	IA Professional Library on CD-ROM Pricing Structure			

QQ	Brochures, ads and marketing materials			
RR	Tdata daily AD updates			
SS	Tdata marketing materials			
TT	Tdata Advertisements			
TTa	Tdata 2000 Advertisements			
TTb	Tdata 2001 Advertisements			
TTc	Tdata 2002 Advertisements			
TTd	Tdata 2004 Advertisements			
TTe	Tdata 2005 Advertisements			
TTf	Tdata 2006 Advertisements			
TTg	Tdata 2007 Advertisements			
TTh	Tdata 2008 Advertisements			
TTi	Tdata TAP Database			
TTj	Advertising Expense documents			
UU	Tdata Direct Mailing			
VV	Direct Mailing Expenses			
WW	IApproach Users Manual – ver. 5.1			
XX	IApproach Software Guide			
YY	IApproach Software Lesson			
ZZ	Trade show documents			
AAA	Trade Show attendance documents			
BBB	Access Database of Customer Information			
CCC	Database of Demonstration CD Recipients			
DDD	Tdata Customer Orders – Orders Database from 1999 – 2004			
EEE	Tdata Access Sales Data			
FFF	Tdata Tax Returns			
GGG	Tdata Profit & Loss Statements			
HHH	Tdata Employers Reports of Wages / W2 forms			
III	Tdata Income Statements			
JJJ	Tdata Balance Sheets			
KKK	Tdata Profit Summaries			
LLL	Tdata Cost & Expense Summaries			
MMM	Tdata Accounting Records			
NNN	Expert Report of Albert Vondra			
OOO	Albert Vondra Work Product			
PPP	Resume/CV of Albert Vondra			
QQQ	Summary of potential economic impact related to trademark use			
RRR	Resume/CV of Laura Thieme			
SSS	Tdata Web page source code			
TTT	Tdata Sales database(s)			
UUU	Tdata Access Database(s)			
VVV	Tdata Order Database(s)			
WWW	Responses to ATP Req. for Production 5			
XXX	Summaries or Compilations from Tdata Databases			
YYY	Summary of Sources of Referral of Customers to Tdata			
ZZZ	Tdata Web page source code			
AAAA	AD Content Enhancement			
BBBB	CD Regulatory Library Prices			
CCCC	CD Regulatory Library Total Sales			

DDDD	CD Regulatory Library Sales			
EEEE	Marketing & E-Commerce			
FFFF	Navigator brainstorming session			
GGGG	Marketing E-Commerce			
HHHH	Incorporation of CARS & CAMS Content into ATP Regulatory Libraries			
IIII	Product Plan – IA Professional Library on CD-ROM			
JJJJ	Notes from NBAA Sales Meeting Re: Tdata			
KKKK	Marketing & E-Commerce			
LLLL	ATP's Objections and Supplemental Responses to Tdata's 1 <sup>st</sup> Interrogatories – provided 4/8/05			
	Demonstrative Exhibits as required to assist testimony by witnesses			
	Any exhibit listed or used by ATP			
	Any document exchanged during discovery			